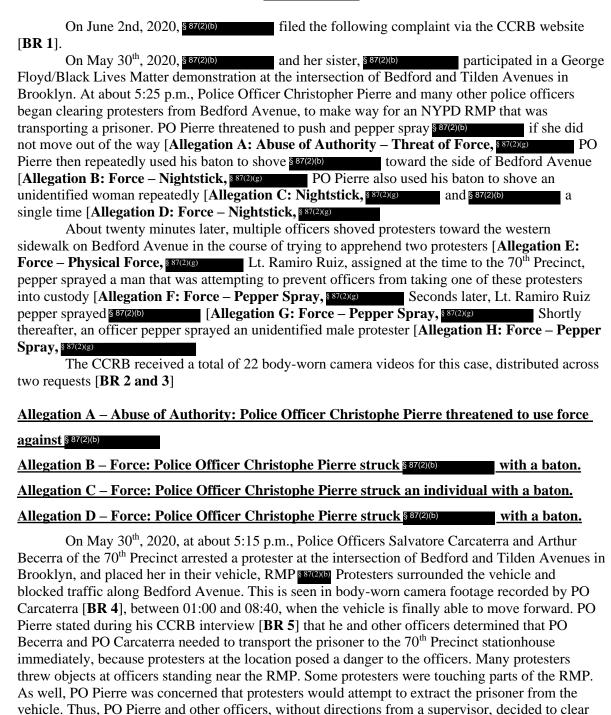
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	M	Force	П	Discourt.	□ U.S.
William Rasenberger		Squad #7	202003810	1	Abuse	П	O.L.	☐ Injury
		7						
Incident Date(s)		Location of Incident:		I	Precinct:	18	Mo. SOL	EO SOL
Saturday, 05/30/2020 6:00 PM		Bedford Avenue betwe and Albemarle Road	een Tilden Avenue		70	11	1/30/2021	5/4/2022
Date/Time CV Reported		CV Reported At:	How CV Reported	:	Date/Time	Rec	eived at CC	RB
Tue, 06/02/2020 11:58 PM		CCRB	On-line website		Tue, 06/02	2/202	0 11:58 PM	
Complainant/Victim	Type	Home Addre	ess					
Subject Officer(s)	Shield	TaxID	Command					
1. POM Christophe Pierre	02499	962014	070 PCT					
2. LT Ramiro Ruiz3. Officers	00000	939384	025 PCT					
4. An officer								
	CI · IIN		C IN					
Witness Officer(s)	Shield N		Cmd Name					
1. SGT Imran Khan	05564	956020	070 PCT					
Officer(s)	Allegatio	on			Inve	estiga	ator Recor	nmendation
A.POM Christophe Pierre		olice Officer Christophe ith the use of force.	er Pierre threatened	87(2)(b)			
B.POM Christophe Pierre		olice Officer Christophe ith a baton.	r Pierre struck § 87(2)(1	b)				
C.POM Christophe Pierre	Force: Police Officer Christopher Pierre struck an individual with a baton.							
D.POM Christophe Pierre	Force: Police Officer Christopher Pierre struck § 87(2)(b) with a baton.							
E. Officers	Force: O	fficers used physical for	ce against individua	ls.				
F.LT Ramiro Ruiz	Force: Li individua	eutenant Ramiro Ruiz u al.	ised pepper spray ag	ains	st an			
G.LT Ramiro Ruiz	Force: Li § 87(2)(b)	eutenant Ramiro Ruiz u	ised pepper spray ag	ains	st			
H. An officer	Force: A	n officer used pepper sp	ray against an indiv	idua	վ.			

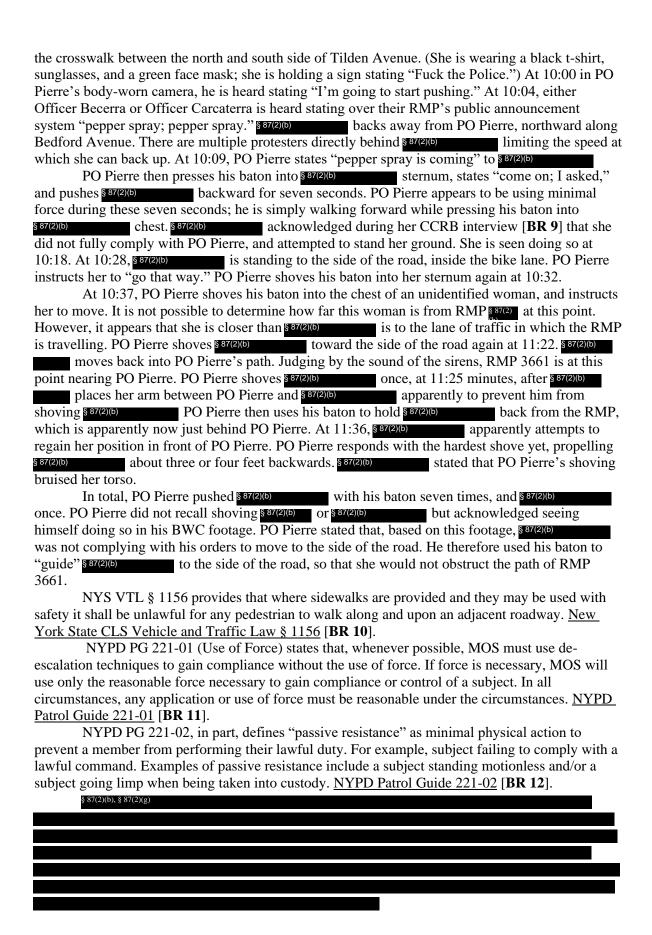
Case Summary

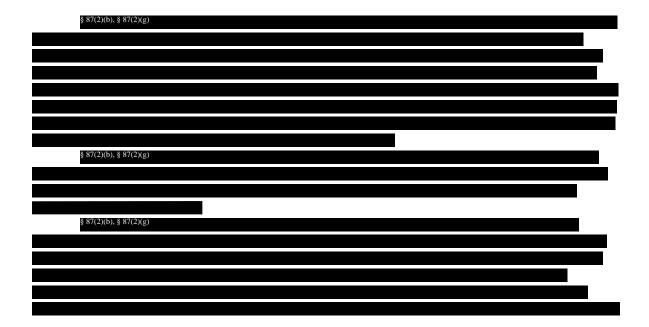


Multiple body-worn camera videos, including those of Police Officer Justin Stewart [**BR** 6], Sergeant Steven Owens [**BR** 7], and PO Pierre [**BR** 8], capture the officers' advance north along Bedford Avenue. Footage from PO Pierre's body-worn camera, between 7:00 and 12:00 minutes, shows PO Pierre clearing the roadway of protesters. At 09:47 minutes in this footage, [87(2)(5)] is seen standing on Bedford Avenue, just in front of an unidentified RMP that is parked in

Bedford Avenue of protesters to make a path for the RMP. PO Pierre stated his intention was to order or forcibly move all protesters to the side of Bedford Avenue, so that they did not impede the

RMP.





Allegation E – Force: Officers used physical force against individuals.

Allegation F - Force: Lieutenant Ramiro Ruiz pepper sprayed an individual.

Allegation G – Force: Lieutenant Ramiro Ruiz pepper sprayed § 87(2)(b)

At about 5:47 p.m., on the west side of Bedford Avenue, about three building-lengths north of Tilden Avenue, multiple officers began pushing protesters toward the western sidewalk. Captain Zelikov's body-worn camera footage [**BR 13**], in which he is seen ordering officers to form lines and corral protesters toward the sidewalks, suggests a coordinated effort to remove protesters from the roadway. Consistently, Sergeant Imran Khan of the 70th Precinct stated during his CCRB interview [**BR 14**] that the officers' main objective was to remove protesters from the roadway. Protesters resisted officers' efforts to move them to the sidewalks, according to Sgt. Khan, and were generally "impossible to control."

Footage from PO Haber's body-worn camera [**BR 15**], at 16:40, captures himself and other officers ordering protesters in the roadway to get back. At 17:11 in the same footage, PO Haber approaches the west sidewalk, with multiple other officers. Between 17:17 and 17:40, it appears that officers are attempting to arrest multiple subjects. Some protesters near the edge of the sidewalk attempt to "de-arrest" these subjects, by holding on to them and trying to drag them away from the officers. This is also seen in PO Hick's body-worn camera footage [**BR 16**] between 00:43 and 00:55. Multiple officers are seen in PO Haber's footage pushing protesters toward or onto the sidewalk, as [\$37(2)(5)] described during her CCRB interview [**BR 17**]. [\$37(2)(5)] stated that some of these protesters became trapped under various objects on the sidewalk, including one man directly in front of her, who became trapped underneath his bicycle.

[These events are captured in PO Haber and PO Hicks's body-worn camera footage. To make the sequence of events more intelligible, screenshots are board-reviewed below. The board-reviews cited next to each time-stamp below refer to corresponding screenshots.]

wearing a white t-shirt and a purple shawl -- is seen at 17:36 [BR 18] in

PO Haber's body-worn camera footage, extending her arm toward a man that has just been pushed – or fallen – onto the sidewalk. This is also seen at 00:55 in PO Hicks's body-worn camera footage.

***POTO** helps this man onto his feet. There is no indication that this the man is under arrest. At 17:37 [BR 19] in PO Haber's BWC footage, at the very right of the frame, Lt. Ruiz is seen standing behind a silver SUV, firing his pepper spray at a black man wearing eye glasses that appears to be "de-arresting" a protester. (A thin, concentrated jet can be seen discharging from Lt. Ruiz's can.)

Lt. Ruiz then raises the can -- as seen at 17:43 [BR 20] in PO Haber's footage and at 01:02 in PO Hick's footage -- and discharges it at *** who appears to be simply standing and observing the arrests taking place in front on her. She is seen being sprayed at 01:03 [BR 21] in PO Hick's body-worn camera. PO Hicks and PO Haber's BWC videos of these events can be seen simultaneously and side-by-side in a video created in InputAce [BR 22]. **** stated that she was sprayed in the face and immediately lost sight. No protesters in **** stated that she was sprayed in the face and immediately lost sight. No protesters in **** stated that she was opposed to spraying indiscriminately.

During his CCRB interview [**BR 23**], Lt. Ruiz stated that he was wearing a riot helmet with the shield number 2622, which belongs to Police Officer Wardah Iqbal of the 70th Precinct. He then identified as himself the officer seen in PO Haber's body-worn camera footage wearing a helmet with shield number 2622 and holding a can of pepper spray. However, Lt. Ruiz denied any recollection of the incident, and stated that he could not determine from the footage whether he actually discharged the pepper spray, or merely pointed the can as a show of force. Lt. Ruiz noted that many protesters persistently threw objects and shot fireworks at officers over the course of the demonstration, in some cases warranting officers' use of force. This is consistent with PO Pierre's testimony, as well as with that of Sgt. Khan. The melee captured in PO Haber's body-worn camera footage, according to Lt. Ruiz, could have warranted the use of pepper spray, so far as protesters were attempting to obstruct arrests and were generally assembled unlawfully. Lt. Ruiz stated that he received training in the use of pepper spray to control disorderly crowds approximately nine years ago. He did not recall any of the regulations or tactics included in the training.

NYS VTL § 1156 provides that where sidewalks are provided and they may be used with safety it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway. New York State CLS Vehicle and Traffic Law § 1156 [BR 12].

New York State Penal Law 195.05 provides that a person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function. New York State CLS Penal § 195.05 [BR 24]

Under NYPD PG 221.01, officers may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. MOS will use only the reasonable force necessary to gain control or custody of a subject. In determining whether a use of force is reasonable, the following should be considered: actions taken by the subject, duration of the action, immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders, number of subjects in comparison to the number of MOS, and the presence of hostile crowd or agitators. NYPD Patrol Guide 221-01 [BR 11].

Under NYPD PG 221-07, pepper spray may be used to gain or maintain control of persons

who are actively resisting arrest or lawful custody or exhibiting active aggression ("threat or overt act of an assault, coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent"), or to prevent individuals from physically injuring members of service or other persons. O.C. pepper spray may be used in arrest or custodial restraint situations where physical presence and/or verbal commands have not been, or would not be, effective in overcoming physical resistance. O.C. pepper spray shall not be used in situations that do not require the use of physical force. Members should avoid discharging O.C. pepper spray indiscriminately over a large area for disorder control. (The only exception is for members that have received specific training in the use of pepper spray for disorder control, and who have been directed by a supervisor to deploy the spray.) NYPD Patrol Guide 221-07 [BR 25].

§ 87(2)(b), § 87(2)(g)	
	ı
§ 87(2)(b), § 87(2)(g)	
	1
§ 87(2)(b), § 87(2)(g)	
	اس
	l

Allegation H: An officer pepper sprayed an individual

Known Facts and General Descriptions

stated that at roughly the same time \$87(2)(b) was pepper sprayed, a tall black man was also pepper sprayed. At 01:07 in PO Hick's footage, a man fitting this description is seen being pepper sprayed. \$87(2)(b) and Lindsay \$87(2)(b) were unable to provide a description of the subject officer.

Body-worn camera footage

The investigator viewed all twenty-two videos received for this case, as well as all BWC footage received for cases 202004408, 202003797, and 202003703. In addition to PO Hick's BWC footage, the incident is also seen between 00:17 and 00:21 in Sgt. Schilling's body-worn camera video [BR 26]. At 00:13 [Screenshot - BR 27] in the simultaneous presentation of PO Haber and PO Hick's body-worn camera footage, it is evident that the subject officer is wearing a black glove. Lt. Ruiz is thus ruled out, as he is not seen wearing a black glove in the footage of him pepper spraying [\$37(2)(6)] Of the videos reviewed for this case, those belonging to PO Haber, PO Hicks, and Sgt. Schilling are the only three that capture this incident. Neither the subject officer's face nor his shield number can be discerned in any of these videos.

NYPD documents reviewed

It was not possible to use documents to identify the subject officer. There were no detail rosters for the location. Hundreds of officers from various commands responded to the location, making it impossible to identify officers using command roll calls. Additionally, there were no AIDEDs, Threat, Resistance, or Injury reports, or other NYPD documents directly related to this incident.

Concurrent investigations

In a telephone conversation on February 16th, 2021, Detective Hussain of Internal Affairs Bureau, Force Investigations (Group 54) confirmed that there are no concurrent investigations into this incident.

Officers interviewed/Ranking Officer on Scene

Lt. Ruiz and Sgt. Khan were the only members of service interviewed in regards to this allegation. Neither Lt. Ruiz nor Sgt. Khan recalled himself or any other officers using pepper spray. Both members stated that the demonstration at the intersection of Bedford and Tilden was very chaotic, with each officer on scene following his or her own instincts and training, as opposed to a systemic effort at disorder control. Both members also noted that they patrolled many George Floyd/Black Lives Matter Protests over the course of a few weeks in late May and early June; it was therefore difficult to differentiate individual demonstrations, and to recall the actions that officers took during each demonstration.

Captain Zelikov was interviewed for case 202004408 [BR 33]. Captain Zelikov stated that he ordered officers to form a "rectangular perimeter," so that all protesters were concentrated in front of the officers. This is consistent with body-worn camera footage, in which Captain Zelikov is seen walking down Tilden Avenue, instructing officers to hold the line against protesters on the sidewalk. Captain Zelikov acknowledged telling officers to "hold the line," but otherwise did not recall issuing any instructions to officers. Captain Zelikov stated that his intentions in ordering officers to hold the line were to maintain control of the crowd and protect officers' safety. Captain Zelikov was unable to speak to any broader strategy for controlling the protesters.

Because the available footage does not capture any identifying characteristics of the subject officer, nor of other members of service in the area of the incident, the investigation was not able to interview the subject of this allegation.

Allegation Recitation

On May 30th, 2020, an officer pepper sprayed an unidentified individual. This incident is partly captured in body-worn camera footage. However, there is no footage of the subject officer. Because there is no footage or documents related to this incident, or any descriptions of the subject officer, it was impossible to determine this officer's identity. §87(2)(5). §87(2)(5). §87(2)(5)

Civilian and Officer CCRB Histories

- This is the first complaint to which either \$87(2)(b) [BR 28] or \$87(2)(b) [BR 29] has been a party.
- Lt. Ruiz has been a member of service for 15 years, over which time he has been the subject of 14 other CCRB complaints and 29 allegations, 3 of which have been substantiated.
 - 201311028 involved an allegation of Abuse Other (unlawful arrest) which was substantiated and resulted in a board disposition of formalized training, and an NYPD penalty of instructions.
 - 201505505 involved an allegation of Abuse Other (unlawful arrest) and stop, both of which were substantiated and resulted in a board disposition of command discipline – A. The NYPD penalty is not listed in CTS.
 - 202004517 involves an allegation of physical force, and is still under investigation to date.
 - There is no pattern reflected in the allegations substantiated against Lt. Ruiz.
- PO Pierre has been a member of service for four year, over which time he has been the subject in four other CCRB complaints and eight allegations, one of which has been substantiated
 - Complaint 201809275 involved an allegation of offensive language other, which was substantiated and resulted in formalized training
 - Complaints 202003797 which involves two separate allegations of force (nightstick as club) -- and 202004408 – which involves an allegation of physical force and an allegation of force (nightstick as club) -- both of which stem from the George Floyd/Black Lives Matter protests, are still under investigation to date.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation per agency operating procedure regarding protestrelated incidents.
- The New York City Office of Court Administration shows that neither \$87(2)(6) not has been convicted of a crime in New York City [BR 30 and 31]
- On February 24th, 2021 the NYC Comptroller's office confirmed that there are no notices of claim in regards to this incident [**BR 32**].

Investigator: _	Will Rasenberger Signature	Inv. Will Rasenberger Print Title & Name	02/17/2021 Date	
C 11 1		Manager Vanessa Rosen	3/26/2021	
Squad Leader: _	Signature	Print Title & Name	Date	
Reviewer:				
_	Signature	Print Title & Name	Date	